

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

ADMINISTRATIVE CIVIL LIABILITY ORDER NO R6V-2008-PROPOSED

**VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY,
FOR VIOLATION OF EFFLUENT REQUIREMENTS CONTAINED IN THE WASTE
DISCHARGE REQUIREMENTS/FEDERAL NPDES PERMIT FOR THE REGIONAL
WASTEWATER TREATMENT PLANT,
VICTORVILLE, SAN BERNARDINO COUNTY
WDID NO. 6B360109001**

This Order is issued in reference to an adjudicative proceeding initiated by the issuance of Administrative Civil Liability Complaint No. R6V-2008-0020, dated August 18, 2008 ("Complaint"). The Parties to this proceeding are the Regional Water Quality Control Board, Lahontan Region ("Regional Water Board") Prosecution Team and the Victor Valley Wastewater Reclamation Authority ("Discharger") (collectively referred to as "Parties").

The Regional Water Board has been presented with a proposed settlement of the claims alleged in the Complaint that has been developed during negotiations between the Parties' representatives. The proposed settlement represents a mutually agreed-upon resolution of the Prosecution Team's claims through the payment of an administrative civil liability in the amount of **\$324,000, \$153,620** of which will be permanently suspended provided the Discharger completes the agreed upon Supplemental Environmental Project (SEP) on schedule and as described in the Discharger's September 23, 2008 SEP Proposal. The Discharger's September 23, 2008 SEP Proposal is attached hereto as Attachment A. The Parties' settlement agreement is attached hereto as Attachment B. The Parties recommend that the Regional Board issue this Order to effectuate the Parties' proposed settlement. Having provided public notice of the proposed settlement and not less than thirty (30) days for public comment, the Regional Water Board finds that:

1. On November 17, 1999, the Lahontan Water Board adopted *Revised Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit Renewal for Victor Valley Wastewater Reclamation Authority Regional Wastewater Treatment Plant*, Board Order No. 6-99-58, NPDES Permit No. CA0102822 (NPDES Permit). The Lahontan Water Board adopted Board Order No. R6V-2008-0004 on February 14, 2008, which updated that permit (Updated NPDES Permit).
2. The Discharger's failure to comply with the NPDES Permit and the Updated NPDES Permit referenced above, as alleged in the Complaint, gives rise to mandatory civil liability under California Water Code section 13385, subdivisions (h) and (i).

3. Under the proposed settlement, the Discharger will pay a mandatory administrative civil liability assessment in full and final settlement of the claims, violations or causes of action alleged in the Complaint in the amount of **\$324,000**, with the sum of **\$153,620** of this amount to be permanently suspended provided that the Discharger completes the SEP described in Attachment A of this Order. The performance of a SEP in this manner is authorized by Water Code section 13385(l)(1), which states, in part,

“In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).”

Because the Complaint proposes mandatory minimum liability in the amount of \$324,000, the maximum amount of the penalty that could be expended on a SEP pursuant to Water Code section 13385(l)(1) is \$169,500. The Discharger's September 23, 2008 SEP Proposal contains a budget of \$153,620, which is less than the maximum SEP expenditure allowed by Water Code section 13385(l)(1).

4. A notice of the settlement and assessment of the civil liability was published in Victor Valley Daily Press on or before October 1, 2008, notifying the public of a 30-day review period and soliciting public comments on the terms of the settlement.
5. The settlement of the Complaint as proposed herein, including attachments, is supported by the Lahontan Water Board Prosecution Team and the Discharger.
6. The SEP meets the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
8. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be

received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality
or will be provided upon request.

IT IS HEREBY ORDERED THAT:

1. The Lahontan Water Board imposes administrative civil liability against the Discharger in the amount of **\$324,000**.
2. The Discharger must provide payment in the amount of **\$170,380** to the State Water Board's Cleanup and Abatement Account by **December 12, 2008**.
3. The remaining **\$153,620** will be permanently suspended upon the Discharger's compliance with the SEP implementation schedule as specified in the Discharger's September 23, 2008 SEP Proposal and as specified in this Order below.
 - a. Complete Task 1, Revise Original Detailed Study Plans/QAPP, by **January 9 2009**. The Discharger must submit to the Lahontan Water Board's South Lake Tahoe and Victorville offices copies of the Revised Detailed Study Plans/QAPP by **January 9, 2009**.
 - b. Complete Tasks 2 through 4, Assessments, by **September 30, 2009**. The Discharger must submit by **September 30, 2009** to the Lahontan Water Board's South Lake Tahoe and Victorville offices, written certifications that Tasks 2 through 4 are completed.
 - c. Complete Task 5, Draft Report, by **March 31, 2010**. The Draft Report must include data collected and data analysis for the entire 24-month study period¹. The Draft Report must also include a complete accounting of all SEP expenditures to date for the entire 24-month study period. The Discharger must submit to the Lahontan Water Board's South Lake Tahoe and Victorville offices the Draft Mojave River Characterization Study Report by **March 31, 2010**.
 - d. Complete Task 5, Final Report, by **June 30, 2010**. The Final Report must address/incorporate Water Board staff comments on the Draft Report. The Final Report must also include a complete and final accounting of expenditures separated into expenditures for the initial 18-month study period required by Administrative Civil Liability Order No. R6V-2006-0055, and

¹ The 24-month study period includes the 18-month study period required by Administrative Civil Liability Order No. R6V-2006-0055, and the six-month study period identified in the Discharger's September 23, 2008 SEP Proposal (Attachment A).

expenditures for activities identified in the Discharger's September 23, 2008 SEP Proposal (Attachment A). The Discharger must submit to the Lahontan Water Board's South Lake Tahoe and Victorville offices the Final Mojave River Characterization Study Report by **June 30, 2010**.

4. If the Discharger fails to meet any of the dates specified in Requirements No. 3a – 3d, or established by the Executive Officer pursuant to Requirement No. 6, the entire suspended amount of **\$153,620** identified in Requirement No. 3 will become due and payable by the Discharger to the State Board Cleanup and Abatement Account within 30 days of written notice by the Executive Officer.
5. Any unspent portion of the suspended liability associated with the September 23, 2008 SEP Proposal budget, as identified in the Water Board-accepted Final Mojave River Characterization Study Report, will become due and payable to the State Water Resources Control Board's Cleanup and Abatement Account within 15 days of the date the Executive Officer issues written acceptance of the Final Mojave River Characterization Study Report.
6. Despite the Discharger's best efforts to comply with the terms of this Order, the Lahontan Water Board's Executive Officer is authorized to extend the compliance dates above if the Executive Officer determines that events beyond the control of the Discharger will prevent it from satisfying any obligation as required by Requirements No. 2 or 3a – 3d, above. In the event that such a situation occurs, the Discharger must submit to the Executive Officer a written notice providing a description of the event it believes will prevent it from satisfying any obligation pursuant to Requirements No. 2 or 3a – 3d, above, an explanation of how the event will cause the delay, the anticipated duration of the delay, and a description of all actions the Discharger has taken and will take to prevent or minimize the delay and a schedule of such actions. The written description must be submitted within 21 days of identifying the event and prior to the relevant compliance date specified in paragraphs nos. 2 or 3a – 3d, above.
7. If the Discharger fails to make the specified payments to the State Board Cleanup and Abatement Account within the time limits specified in the Order, or as may be specified by the Lahontan Water Board's Executive Officer pursuant to the provisions of the preceding requirement, the Lahontan Water Board may enforce this Order by applying for a judgment pursuant to Water Code section 13328. The Lahontan Water Board's Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328 if the criteria specified in this paragraph are satisfied.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on November 12, 2008.

HAROLD J. SINGER,
EXECUTIVE OFFICER

Attachments:

- A. Victor Valley Wastewater Reclamation Authority's September 23, 2008 SEP Proposal
- B. Settlement Agreement